

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

File No. 1:05-CR-163

v.

HON. ROBERT HOLMES BELL

DANIEL HANKINSON,

Defendant.

_____ /

MEMORANDUM OPINION AND ORDER

Before the Court is a motion by Defendant Daniel Hankinson for an extension of sixty days to file a motion to challenge his sentence pursuant to 28 U.S.C. § 2255. (Dkt. No. 1144.) Because it appears that an extension of time is unnecessary, Defendant's motion will be denied.

The Court entered a judgment of conviction in Defendant's criminal case on June 20, 2007. (Dkt. No. 975.) Defendant appealed the judgment and the Court of Appeals for the Sixth Circuit entered an order affirming the judgment on January 14, 2009. (Dkt. No. 1063.) According to the docket for Defendant's appeal, it appears that Defendant did not file a petition for a writ of certiorari to the Supreme Court. Motions brought pursuant to § 2255 are subject to a one-year statute of limitations running from the latest of, *inter alia*, the date on which a judgment of conviction becomes final. 28 U.S.C. § 2255(f)(1). For criminal defendants that do not file a petition for a writ of certiorari, the judgment

becomes final when the time for seeking review expires. *Clay v. United States*, 537 U.S. 522, 532 (2003). Thus, it appears that Defendant's judgment of conviction became final on or around April 14, 2009, ninety days after the Sixth Circuit entered its order affirming the judgment. *See* Sup. Ct. R. 13(1) (indicating that a petition for a writ of certiorari is timely if filed within ninety days after entry of the judgment). In light of the foregoing, the one-year statute of limitations for Defendant's motion has not yet expired and will not expire for more than sixty days from this date. Accordingly,

IT IS HEREBY ORDERED that Defendant's motion for an extension of time (Dkt. No. 1144) is **DENIED**.

Dated: February 5, 2010

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE